



An
Bord
Pleanála

Inspector's Report

ABP-319921-24

Development

Retention of change of use from storage units to metal recycling facility. Permission for alterations to unit and for a building for truck unloading and storage with associated site works. This application relates to development which comprises an activity requiring a waste facility permit number WFP-WX-21-0181-01.

Location

Ballyknockan and Ballygillane Big, E.D. Saint Helen's, Co. Wexford

Planning Authority

Wexford County Council

Planning Authority Reg. Ref.

20211334

Applicant(s)

Tamer Metal Recycling Limited.

Type of Application

Permission and Permission to retain.

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellant(s)

Darren O' Ceallaigh on behalf of Kilrane Concerned Residents Group.

Observer(s)

None.

Date of Site Inspection

23rd of November 2022.

Inspector

Stephanie Farrington

1.0 Introduction & Background

- 1.1. I refer to correspondence dated the 1st of July 2024 which outlines that the Board had previously made a decision on this appeal by order dated 24th of October 2023 and under appeal reference number ABP-312172-21. The correspondence confirms that this decision was quashed by order of the High Court and the case was remitted by that Court back to the Board for a new decision. The appeal has now been reactivated under ABP Ref: 319921-24.
- 1.2. Having regard to the High Court Order in this case, the quashing of the previous Board decision and the passage of time, the Board considered that it was appropriate in the interests of justice to now request relevant parties under Sections 131 and 137 of the Planning and Development Act 2000 (as amended) to make any further general submissions/observations in relation to the appeal and to make submissions on the Wexford County Development Plan 2022-2028 in the context of the proposed development which was subject of the appeal.
- 1.3. All parties were invited to make a submission in relation to the matters raised above on or before the 22nd of July 2024. This report considers the submissions made on foot of the request and the proposed development in the context of the policy provisions of the Wexford County Development Plan 2022-2028 and should be read in conjunction with my original assessment set out within the Inspectors Report dated the 9th of May 2023 in respect of ABP Ref: 312172-21.

2.0 Response to Board's Correspondence

Planning Authority Response

- 2.1. A response has been received from the Planning Authority dated the 3rd of July 2023. The points raised by the Planning Authority can be summarised as follows:
 - The application was assessed by Wexford County Council under the then relevant Wexford County Development Plan 2013-2019, as extended, which expired on the 25th of July 2022.

- At the time of assessment of the application, regard was also had to the Draft 2022 County Development Plan, whereby the proposed use was open for consideration. The use had changed to a “not permitted” use under the adopted Wexford County Development Plan 2022-2028.
- The correspondence refers to the timeframe for lodgement of the appeal and correspondence from An Bord Pleanála in relation to delays on the timeframe of the decision and the subsequent assessment of the application by the Board under the Wexford County Development Plan 2022-2028.
- The correspondence seeks clarification from the Board on what basis in law the application was not considered by the planning authority.
- The correspondence outlines that by assessing the application under new rules and noting the delays were caused by issues at An Bord Pleanála, that the Council, the applicant and appellants are potentially disadvantaged for reasons outside all three party’s control.

Appellant Response

2.2. A response has been received from the appellant (Darren O’ Ceallaigh – on behalf of Kilrane Concerned Residents Group) on the 4th of July 2024. The following provides a summary of the points raised:

- The correspondence refers to the provisions of the Wexford County Development Plan 2022-2028 which support the original observation on the proposal. The submission outlines that the development falls within the definition of Waste Management Facilities and the use is listed as a use which is not permitted on lands zoned for light industrial purposes. The submission furthermore refers to the Development Management Guidance set out within Section 8.8.3 of the Wexford County Development Plan 2022-2028 which outlines that *“in general, no new waste disposal facility or Waste Transfer Station shall be located within 200m of a residence”* and outlines that *the proposed development is in breach of this requirement*. The submission outlines that the proposal is not in accordance with the proper planning and sustainable development of the area in this regard.
- The submission furthermore outlines that the lands do not fall within the classification of Light Industry as defined within The Local Government

(Planning and Development) Act 1963 (Exempted Development) Regulations 1964.

- The submission outlines that the works at the facility, its proximity to many homes, noises and smells emitted, waste storage in proximity to homes, its size being serviced by HGV's, the lack of proper wastewater treatment, clearly show that it cannot be classed as light industry.

3.0 **Assessment**

3.1. I have reviewed the points raised within the submission from Wexford County Council and the appellant as summarised in Section 2 above. The points raised are summarised under the following headings.

- Development Plan Policy Context
- Impact on Residential Amenity

3.2. The issues raised are addressed in brief as follows and should be read in conjunction with my original assessment set out within the Inspectors Report dated the 9th of May 2023 in respect of ABP Ref: 312172-21.

- **Development Plan Policy Context**

3.2.1. The submission on file from Wexford County Council questions the assessment of the Board of the appeal under the provisions of the Wexford County Development Plan 2022-2028. The submission outlines that the application was assessed by the planning authority in accordance with the provisions of the Wexford County Development Plan 2013-2019, as extended. It is stated that all parties to the application were at a disadvantage by assessing the proposal under new rules as set out within the Wexford County Development Plan 2022-2028.

3.2.2. I note the concerns raised by the planning authority. I refer to Sections 5.1 and 7.2 of the Inspector's Report dated the 9th of May 2023, which notes the change in policy context since the planning authority's decision. The appeal was assessed on its merits having regard to the operative development plan in place at the time of assessment, namely the Wexford County Development Plan 2022-2028.

3.2.3. I refer to Section 7.2.20 of the Inspectors Report ABP Ref: 312172-21 which outlines that relevant parties were not given an opportunity to comment on the appeal in the

context of the Wexford County Development Plan 2022-2028 and states that the Board may wish to seek their views prior to determining the case. I refer to the correspondence issued by An Bord Pleanála dated the 1st of July 2024 wherein the applicant, appellant and planning authority were given the opportunity to make general comments on the appeal and specific comments in relation to the Wexford County Development Plan 2022-2028.

3.2.4. The submission on file from the appellant (Darren O' Ceallaigh – on behalf of Kilrane Concerned Residents Group) outlines that the proposal is not in accordance with the provisions of the Wexford County Development Plan 2022-2028. I consider that this point is addressed within Section 7.2 of the Inspectors Report dated the 9th of May 2023.

3.2.5. Having examined the received submissions I consider that no significant new information or comment has been made that would result in a different recommendation to that originally made in the Inspector's Report dated 9th of May 2023.

- **Impact on Residential Amenity**

3.2.6. The submission from the appellant raises concern in relation to the impact of the development on the residential amenity of existing properties within the vicinity. I am satisfied that the concerns raised are addressed within Sections 7.4 and 7.5 of the Inspectors Report ABP Ref 312172-21. I have reviewed the appellant's submission and I consider that no significant new information or comment has been made that would result in a different recommendation to that originally made in the Inspector's report.

4.0 Recommendation

4.1. Taking into account my assessment as set out in this addendum report, in conjunction with my original assessment, Inspector's report ABP Ref: 312172-21 dated 9th of May 2023, my recommendation to the Board regarding the application before it remains broadly the same. I recommend that planning permission be refused for the development in accordance with the following reasons and considerations:

1. The appeal site is located within Kilrane Business Park on the edge of the village Kilrane. The proposal seeks permission to retain a metal recycling facility use within Kilrane Business Park and permission for alterations to the structure. The appeal site is zoned for both Light Industrial purposes and Open Space and Amenity purposes within the Kilrane and Rosslare Harbour Settlement Plan as set out within Volume 3 of the Wexford County Development Plan 2022-2028. The development falls within the definition of Waste Management Facilities as set out within the Wexford County Development Plan 2022-2028. The use waste management facilities is listed as a use which is “not permitted” on both lands zoned for Light Industrial purposes and Open Space and Amenity purposes.

Objective WM05 of the Wexford County Development Plan sets out criteria to be satisfied where it is proposed to develop waste management facilities including “*the proposal should comply with the zoning objective for the subject lands*”. The Development Management Guidance set out within Section 8.8.3 of the Wexford County Development Plan 2022-2028 furthermore outlines that “*in general, no new waste disposal facility or Waste Transfer Station shall be located within 200m of a residence*”.

The proposed development and development proposed to be retained would materially contravene the zoning objectives pertaining to the site as set out within the Wexford County Development Plan 2022-2028 and would be contrary to the requirements of Objective WM05 of the Plan and the development management criteria for the siting of waste facilities relative to residential development. The proposed development and development proposed to be retained would, therefore, be contrary to the provisions of the Wexford County Development Plan 2022-2028 and the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has

influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Stephanie Farrington
Senior Planning Inspector

1st of August 2024